

Exhibit “7”

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DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-X

MERLENE BACCHUS,

Plaintiff,

-against-

12-CIV-1663

NEW YORK CITY DEPARTMENT OF EDUCATION, RENEE PEPPER
and BOARD OF EDUCATION EMPLOYEES LOCAL 372, DISTRICT
COUNCIL 37, AMERICAN FEDERATION OF STATE, COUNTY and
MUNICIPAL EMPLOYEES, AFL-CIO,

Defendants.

-X
498 Atlantic Avenue
Brooklyn, New York

June 20, 2013
12:20 p.m.

DEPOSITION of PRIA BALA, a Witness on
behalf of the City of New York, a Defendant in the
above-entitled action, held at the above time and
place, taken before Joanna Mystkowski, a Notary Public
of the State of New York, pursuant to the Federal
Rules of Civil Procedure and stipulations between
Counsel.

COPY

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2 A P P E A R A N C E S

3

4 LAW OFFICES OF VINCENT I. EKE-NWEKE, PC
5 Attorney for the Plaintiff
6 498 Atlantic Avenue
7 Brooklyn, New York 11217

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9 By: VINCENT I. EKE-NWEKE, ESQ.

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11

12

13 MICHAEL A. CARDOZO, ESQ.

14 Corporation Counsel for the City of NY
15 100 Church Street - room 2-103
16 New York, New York 10007

17

18 By: KATHRYN LEONE, ESQ.

19

20

21 JESSE GRIBBEN, ESQ.

22 Assistant General Counsel
23 DC 37, AFSCME, AFL-CIO
24 125 Barclay Street - room 510
25 New York, New York 10007

26

27

28 ALSO PRESENT:

29 Merlene Bacchus

30

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33

34
35 YAO

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2 STIPULATIONS

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4 IT IS HEREBY STIPULATED AND AGREED, by
5 and between the attorneys for the respective parties
6 hereto, that the filing, sealing and certification of
7 the within deposition shall be and the same are hereby
8 waived;

9

10 IT IS FURTHER STIPULATED AND AGREED that
11 all objections, except as to form of the question,
12 shall be reserved to the time of the trial;

13

14 IT IS FURTHER STIPULATED AND AGREED that
15 the within deposition may be signed before any Notary
16 Public with the same force and effect as if signed and
17 sworn to before the Court.

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1 PRIA BALA

2 deposition. I ask you to review that document and let
3 us know if you have seen it prior to this date.

4 A What do I have to read?

5 Q No, no. Just look at it and tell us if
6 you've seen that document before?

7 A No. no.

8 Q Where were you born, Ms. Bala?

Where was I born?

10 0 Yes

11 A. I was born in India.

12 Q. / How are you presently employed?

10. I still work for Board of Education.

14 Q When did you begin your employment with
15 the Board of Education?

A Twenty years ago

17 Q When you started your employment with
18 the Board of Education twenty years ago, in what title
19 or position were you employed?

21 Q Did there come a time when your title
22 changed from part-time school aide to something else?

23 A Yes. I did change my title to family
24 worker. That was full-time position. And then I was
25 clerical assistant. Now for last seven years I'm

1 PRIA BALA

2 working as a parent coordinator.

3 Q When you first started working as a
4 parent coordinator, which school were you assigned to?

5 A I started at PS/IS 295.

6 Q Do you recall what year you started at
7 PS/IS 295?

8 A I think we started September 2007.

9 Q Who was the principal of the school at
10 the time?

11 A Ms. Angela Thompson.

12 Q I understand that Ms. Thompson is now
13 deceased; is that right?

14 A Yes, yes.

16 A I think -- I don't recall the exact date
17 and year, but I believe it was last year she died.

18 Q Prior to the time Ms. Thompson passed
19 away, was there a period that she was not coming to
20 school regularly as she used to?

21 A Ms. Thompson was very sick and she used
22 to be out a lot due to her sickness.

23 Q When you say she used to be out a lot,
24 was this in 2008, 2009, 2010 or something else,
25 sometime else?

1 PRIA BALA

2 A Say 9, 10. 2009-10 she was pretty sick.

Q She was out a lot during that period?

4 A She was.

5 Q Would you please tell us what your job
6 responsibilities were at PS 295 as a parent
7 coordinator?

8 A As I said, me and Ms. Thompson we
9 started this school in 2007 and as a parent
10 coordinator, I was doing everything, too. Not just my
11 job, I was doing school aide work, whatever, wherever
12 I was needed I was helping out, I was doing it. A lot
13 of jobs I was doing I wasn't supposed to be doing but
14 I was doing because I believe in team work and
15 whatever was needed, I was helping out so I was given
16 all different assignments all the time.

17 Q Did there come a time when you started
18 doing the work of a parent coordinator?

19 A Yes. I used to hold my workshops, I
20 used to see all my parents and deal with their
21 problems if they had any. I was still doing other
22 school aide work. Everything else I was asked to do I
23 was doing it.

24 Q Did you have regular contact with the
25 parents of the students in the school?

1 PRIA BALA

2 Q You know Ms. Bacchus, correct?

3 A Yes, we worked together. Yes.

4 Q Did you work together until
5 approximately May 2011 when she ceased to work at PS
6 295?

7 MS. LEONE: Objection. I don't think
8 it's May.

9 MR. EKE-NWEKE: I'm sorry.

10 Q Did you work together with Ms. Bacchus
11 until approximately March 2011 when she ceased to work
12 at PS 295?

13 A Yes, I did.

14 Q During the time that Ms. Bacchus was
15 working at the school, did you ever receive any
16 complaints about anything Ms. Bacchus may have done to
17 a child from any parent?

18 A No, I never received no complaints about
19 that.

20 Q Did you receive any complaint from any
21 other school aide? Sorry. Did you receive any
22 complaint about any other school aide?

23 A No. Excuse me, is that you asking about
24 parents complaining about the school aide or -- I'm
25 sorry. I didn't understand that.

11

1 PRIA BALA

2 O Parents complaining about a school aide?

3 A No.

4 Q What about students complaining about a
5 school aide?

6 A Sometimes when student have a fight, we
7 always tell them whoever adult is present you should
8 go to them and tell them what happened. So sometimes
9 student used to come up and say so and so hit me or
10 this happened in the yard and then I ask them did you
11 tell adult, did you tell whoever was there. Most of
12 the time, school aides are outside with them and they
13 used to tell me yeah. I told so and so and this is
14 what happened.

15 Q What I really wanted to know was whether
16 any student made a complaint to you about something a
17 school aide did to him or her?

18 A No.:

Q. When did you cease to work at PS 295?

so I'm sorry.

Q. When did you cease to work at PS 295?

Page 5 of 5

22
23 MS. LEONE: When did you stop working at
PC 295

25 A Oh, stop working. Sorry. I stop

12

1 PRIA BALA

2 working there -- I started at PS 118 elementary school
3 on April 27, 2011.

4 Q Under what circumstances did you stop
5 working at PS 295; were you transferred, did you seek
6 a transfer or something else?

7 A I seek a transfer. I swap with another
8 parent coordinator. She came to my school and I went
9 to her school.

10 Q What is the name of that parent
11 coordinator?

12 A Her name is Annette Davis.

13 Q For what reason, if any, did you decide
14 to swap positions with Ms. Davis?

15 A Because I had a lot of problems there, a
16 lot of issues.

17 Q You had a lot of problems or issues at
18 PS 295, correct?

19 A Yes, yeah.

20 Q Did you have these problems or issues
21 with any person in particular?

22 A I would say with the AP, Ms. Pepper.

23 0 Ms. Renee Pepper?

24 A. Renee Pepper

Q. What specifically do you mean when you

1 PRIA BALA

2 say you had a lot of problems and issues with Ms.

3 Pepper?

12 She write me up the first time when she
13 gave me and that's why I had some issues with her.
14 And she used to give me assignments I wasn't supposed
15 to do, but she gave it to me and I did it for her so
16 we had lot of problems and I was really, really
17 getting stressed out.

18 Q Because of that, you decided to seek a
19 transfer to another school?

20 A Yes. I couldn't take it anymore. It
21 was too stressful.

22 Q I'm going to show you what had
23 previously been marked as Pepper Exhibit 31 at another
24 deposition. I refer your attention to what appears to
25 be a signature above your name on the first page of

1 PRIA BALA

2 that exhibit. Do you see that?

3 A This?

4 Q Yes.

5 A Yes.

6 Q Did you sign that?

7 A Yes, I did.

8 Q Did you submit that statement in January
9 of 2010?

10 A Yeah.

11 Q Do you recall the circumstances under
12 which you signed that document?

13 A Yeah.

Q You recall the incident in question?

15 A Yeah.

16 Q That statement refers to January 6th,
17 2010. I ask you, during the incident that you
18 referred to in that statement, do you recall whether
19 or not the school guidance counselor was present at
20 the school when the incident happened?

21 A No, she wasn't there.

22 O She wasn't there?

23 A No.

24 Q On what basis do you say that she wasn't
25 there?

1 PRIA BALA

2 A Because I remember it was Barbara Levy,
3 she was at her desk and Ms. Bacchus came in, she went
4 to her desk and my room was right in the corner and I
5 was in my room and there was another school aide, she
6 was there and then Ms. Bacchus spoke to me from her
7 desk. She seemed very upset and she just, you know,
8 said that do you believe that I'm being followed to
9 the bathroom now. I said what? And then Ms. Pepper
10 came in and she came in my room and she asked me
11 what's going on, I said nothing. I just started to
12 laugh and she laughed too and then she left.

13 Q After Ms. Bacchus said do you believe
14 I'm being followed to the bathroom now, did any other
15 person ask you any question about that on that date,
16 about that comment?

17 A No.

18 Q Do you believe when Ms. Bacchus said do
19 you believe I'm being followed to the bathroom now she
20 said it in a loud tone of voice?

21 A She spoke from her desk and I was like
22 -- I guess it was loud, yeah.

For you to hear it?

24 A For me to hear it, yes.

and when it was 1

25 Q Do you believe it was loud enough for

1 PRIA BALA

2 conversation?

3 A No.

4 MR. EKE-NWEKE: We will call for the
5 production of Ms. Trina Mixon's statement as
6 well as Ms. Bala's rebuttal statement both
7 from the union as well as the Department of
8 Education.

MS. LEONE: Taken under advisement.

18 MR. GRIBBEN: Taken under advisement.

11 MR. EKE-NWEKE: Can we go off the record
12 for a few minutes?

13 MS. LEONE: Sure.

14 (Whereupon, a short recess was taken.)

15 Q I'm going to refer you to what had
16 previously been marked as Pepper Exhibit 2. I refer
17 you specifically to the second page of that exhibit.
18 Please let us know when you are done reviewing the
19 exhibit. Have you seen either of those statements any
20 time prior to today?

21 A NO.

22 Q. Referring to the second page which
23 appears to be Colleen O'Connell's name, do you see in
24 the second line where it indicates that Ms. Bacchus
25 said the following, "are you going to wipe my butt,

1 PRIA BALA

2 too?" Do you see that?

3 A Yeah.

4 Q On that day, when you described that Ms.
5 Bacchus came into the room and said something to the
6 effect of I'm being followed to the bathroom, did Ms.
7 Bacchus say "are you going to wipe my butt, too" to
8 you?

9 A No.

10 Q Did you hear her say that?

11 A No.:

13 Q I believe you indicated that Ms.

13. O'Connell was not in the office on that day?

14 A No no

15 0 At that time?

16 A. Nozaki

17 Q On what basis do you say she was not
18 there?

19 A Because in the office before Ms. Bacchus
20 came into the room, Ms. Barbara Levy was sitting on
21 her desk, I was in my little room and Trina Mixon was
22 standing with me, she was talking to me, she was
23 asking about some work. Nobody else was in the office
24 because usually, whenever anybody comes into the
25 office, a parent or anybody, as soon as I hear, I go

1 PRIA BALA

2 out of my room and go to the counter and ask them for
3 anything they want help with.

4 Ms. Levy will call me, too if somebody's at
5 the corner so nobody else was there. It was only Ms.
6 Levy, me and Trina before Ms. Bacchus came into the
7 room.

8 Q Is there an area where the time clock is
9 located in the office?

10 A Yeah. It's in the -- yeah. It's in the
11 wall when you walk into the office.

12 Q If Ms. O'Connell is in the area where
13 that time clock is, would you be able to know?

14 A Sure. I mean, like, she wasn't there.
15 I would know if she was there in the office, because I
16 know we just came into the office just before she
17 came, I came into the office, then Trina came and
18 there was nobody else in the office only Barbara Levy
19 was sitting at her desk.

20 Q You were saying just before Ms. Bacchus
21 came in you had just come into the office?

22 A We just came from outside, we all came
23 in.

24 Q And it's your testimony that you would
25 have seen Ms. O'Connell if she was there?

1 PRIA BALA

2 A Sure.

3 Q Ms. Barbara Levy also stated in her own
4 statement, which appears to be the first page of
5 Pepper Exhibit 32, that Ms. Bacchus was talking in a
6 loud voice and she said "are you going to wipe my
7 butt, too."

11 MS. LEONE: Objection.

12 A Actually, I'm surprised because I didn't
13 see this before and I have no idea why would they say
14 that because when we came into the room, it was only
15 Barbara Levy at her desk, she was at her desk and then
16 me and Trina, we came in my room because she wanted to
17 talk to me about some work, then Ms. Bacchus came in
18 and she was very upset as she was standing on her desk
19 and she just told us like we looked and she goes, can
20 you believe I'm being followed to the bathroom now and
21 I said what? And then we heard Ms. Pepper came, she
22 came right into my room and then she asked me what was
23 going on and I said nothing. I started to laugh and
24 she started to laugh, too and she left.

25. O Ms. Pepper started to laugh?

1 PRIA BALA

2 A She was laughing because I started to
3 laugh because she was saying what's going on and I
4 said nothing, you know. She started to laugh and she
5 left.

6 Q During the period that Ms. Bacchus was
7 employed as a school aide at the school, PS/IS 295,
8 did you see any school aides wearing their
9 pocketbooks?

10 A I seen some school aides like Trina
11 Mixon most of the time she got her bag with her. We
12 do have some lockers, but it's not enough for
13 everybody so you share and sometimes they leave it,
14 but they do carry their book bags around.

15 Q Do you know if any aides were written up
16 for carrying their pocketbooks?

Not that I know of. I don't know.

18 Q Do you know if school aides were
19 required to get permission before they used the
20 bathroom, go to the bathroom?

21 A No. Whenever they need, they just say
22 I'm going to the bathroom and they just go.

23 Q Did it ever come to your attention that
24 Ms. Bacchus was asked to seek permission before going
25 to the bathroom?

1

2 CERTIFICATION BY REPORTER

3 I, Joanna Mystkowski, a Notary Public of the
4 State of New York, do hereby certify:

5 That the testimony in the within proceeding
6 was held before me at the aforesaid time and place;

7 That said witness was duly sworn before the
8 commencement of the testimony, and that the testimony
9 was taken stenographically by me, then transcribed
10 under my supervision, and that the within transcript
11 is a true record of the testimony of said witness.

12 I further certify that I am not related to
13 any of the parties to this action by blood or
14 marriage, that I am not interested directly or
15 indirectly in the matter in controversy, nor am I in
16 the employ of any of the counsel.

17 IN WITNESS WHEREOF, I have hereunto set my
18 hand this 1st day of July, 2013.

19

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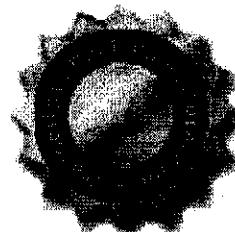
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joannamystkowski

JOANNA MYSTKOWSKI